

AMENDED IN SENATE APRIL 30, 2003

AMENDED IN SENATE MARCH 26, 2003

**SENATE BILL**

**No. 631**

**Introduced by Senator McPherson**  
(Principal coauthor: Assembly Member Matthews)

February 21, 2003

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An act to amend ~~Section~~ *Sections 1202.4, 1202.45, and 1214 of, and to add Section 1202.44 to, the Penal Code, relating to restitution, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 631, as amended, McPherson. Restitution.

~~Existing law requires a court to order a defendant convicted of a misdemeanor or felony to pay~~

*(1) Under existing law, in every case where a person is convicted of a crime, the court is required to impose a restitution fine, unless it finds compelling and extraordinary reasons for not doing so, and states those reasons on the record.*

*This bill would prohibit a court from staying this restitution fine after it is imposed.*

*(2) Under existing law, a victim restitution order or restitution fine is enforceable as a civil judgment, and continues to be collectible after probation and parole has terminated. Existing law requires a defendant to prepare a disclosure of assets, income and liabilities as of the date of arrest for the crime for which restitution may be ordered, and requires the disclosure be made available to the victim, as specified.*

*This bill would require a defendant who has an unpaid balance on a restitution order or fine at the time of his or her release from probation*

or parole to submit a current financial disclosure statement to his or her probation or parole officer. This bill would require that both this disclosure statement and the initial disclosure statement be made available to the victim or to the California Victim Compensation and Government Claims Board.

(3) Existing law permits the board of supervisors of any county to impose a fee to cover the actual administrative cost of collecting a restitution fine, not to exceed 10% of the amount ordered to be paid, to be added to the restitution fine and included in the order of the court, the proceeds of which shall be deposited in the general fund of the county.

This bill would replace these provisions with an authorization for every entity responsible for collecting restitution fines, fees, and related orders, including parole revocation restitution fines, probation violation restitution fines, and diversion restitution fees as discussed below, to impose a 10% administrative fee to cover the costs of collection. It would specify that the remaining 90% of funds received in satisfaction should be applied to the debt, and that probationers, if ordered by the court, shall make payments in a manner consistent with obligations for work, accounting, and payment specified in existing law.

(4) Existing law provides that restitution is to be made to the Restitution Fund to the extent that the victim of the crime has received assistance from the Victim Compensation and Government Claims Board. Existing law requires that a victim in a criminal case be notified of sentencing proceedings, of the right to civil recovery, and of the opportunity for compensation from the Restitution Fund. However, existing law does not explicitly address the circumstance in which an order is made for restitution to the Victim Compensation and Government Claims Board.

This bill would require a court clerk to notify the Victim Compensation and Government Claims Board within 90 days of an order requiring a defendant to pay restitution to the board by mailing a copy of the order to the board, and would allow this to be done periodically by bulk mail.

(5) Under existing law, a restitution fine which is then deposited into the Restitution Fund for expenditure by the Victim Compensation and Government Claims Board as awards to victims of crime, as specified. For cases in which a sentence is imposed that includes a period of parole, existing law provides that an additional restitution fine shall be ordered, in the same amount as the primary restitution fine, to be



suspended unless the person's parole is revoked. *Existing law does not provide for a similar suspended fine for probationers.*

*This bill would state that the parole revocation restitution fine becomes effective on revocation of parole, and cannot be waived or reduced by the court. The bill also specifies that parole revocation restitution fines are to be deposited in the Restitution Fund in the State Treasury. It would also provide for a probation violation restitution fine, also in the same amount as the primary restitution fine, to be ordered by the court and assessed each time a person's probation is violated. This probation violation restitution fine also could not be waived or reduced by the court, and would be deposited in the Restitution Fund.*

(6) Existing law provides that a fine or restitution fine may be enforced in the manner of civil judgments generally, specifies that the Victims Compensation and Government Claims Board may collect restitution fine balances after the termination of a term of probation or parole, authorizes disclosure of specified information to the board to assist the board in collecting restitution fines, and exempts restitution fines from the statutes limiting the time permitted for enforcing judgments.

Existing law establishes diversion programs in categories of cases involving drug and other charges that, upon successful completion, lead to the dismissal of criminal charges. For most of these categories, the court is required to impose a diversion restitution fee on the defendant, as specified.

This bill would specify that a diversion restitution fee or a restitution fine imposed upon parole revocation *or probation violation* may also be enforced in the manner of civil judgments generally. It provides that parole revocation restitution fines, *probation revocation restitution fines*, and diversion restitution fees are also subject to collection by the board after the termination of parole or completion of diversion, and that the same disclosures authorized to assist the board in collecting restitution fines may be given to the board to assist in collecting these parole revocationrestitution fines and diversion restitution fees. This bill would also exempt diversion restitution fees from the time limitations on enforcing judgments.

(7) Under existing law, the former State Board of Control has been renamed the Victim Compensation and Government Claims Board.

This bill would correct obsolete references to the State Board of Control *and correct a related cross reference.*



(8) Existing provisions of the Government Code continuously appropriate money in the Restitution Fund to the California Victim Compensation and Government Claims Board for expenditure on indemnifying victims of crime, as specified. Because this bill would increase the amount of money deposited into this fund, it would make an appropriation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~ <sup>2/3</sup>. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 1202.4 of the Penal Code is amended to*  
2 *read:*

3 1202.4. (a) (1) It is the intent of the Legislature that a victim  
4 of crime who incurs any economic loss as a result of the  
5 commission of a crime shall receive restitution directly from any  
6 defendant convicted of that crime.

7 (2) Upon a person being convicted of any crime in the State of  
8 California, the court shall order the defendant to pay a fine in the  
9 form of a penalty assessment in accordance with Section 1464.

10 (3) The court, in addition to any other penalty provided or  
11 imposed under the law, shall order the defendant to pay both of the  
12 following:

13 (A) A restitution fine in accordance with subdivision (b).

14 (B) Restitution to the victim or victims, if any, in accordance  
15 with subdivision (f), which shall be enforceable as if the order  
16 were a civil judgment.

17 (b) In every case where a person is convicted of a crime, the  
18 court shall impose a separate and additional restitution fine, unless  
19 it finds compelling and extraordinary reasons for not doing so, and  
20 states those reasons on the record.

21 (1) The restitution fine shall be set at the discretion of the court  
22 and commensurate with the seriousness of the offense, but shall  
23 not be less than two hundred dollars (\$200), and not more than ten  
24 thousand dollars (\$10,000), if the person is convicted of a felony,  
25 and shall not be less than one hundred dollars (\$100), and not more  
26 than one thousand dollars (\$1,000), if the person is convicted of  
27 a misdemeanor.

1 (2) In setting a felony restitution fine, the court may determine  
2 the amount of the fine as the product of two hundred dollars (\$200)  
3 multiplied by the number of years of imprisonment the defendant  
4 is ordered to serve, multiplied by the number of felony counts of  
5 which the defendant is convicted.

6 (c) The court shall impose the restitution fine unless it finds  
7 compelling and extraordinary reasons for not doing so, and states  
8 those reasons on the record. A defendant's inability to pay shall not  
9 be considered a compelling and extraordinary reason not to impose  
10 a restitution fine. Inability to pay may be considered only in  
11 increasing the amount of the restitution fine in excess of the  
12 two-hundred-dollar (\$200) or one-hundred-dollar (\$100)  
13 minimum. *The court shall not stay the restitution fine after it is*  
14 *imposed.*

15 (d) In setting the amount of the fine pursuant to subdivision (b)  
16 in excess of the two-hundred-dollar (\$200) or one-hundred-dollar  
17 (\$100) minimum, the court shall consider any relevant factors  
18 including, but not limited to, the defendant's inability to pay, the  
19 seriousness and gravity of the offense and the circumstances of its  
20 commission, any economic gain derived by the defendant as a  
21 result of the crime, the extent to which any other person suffered  
22 any losses as a result of the crime, and the number of victims  
23 involved in the crime. Those losses may include pecuniary losses  
24 to the victim or his or her dependents as well as intangible losses,  
25 such as psychological harm caused by the crime. Consideration of  
26 a defendant's inability to pay may include his or her future earning  
27 capacity. A defendant shall bear the burden of demonstrating his  
28 or her inability to pay. Express findings by the court as to the  
29 factors bearing on the amount of the fine shall not be required. A  
30 separate hearing for the fine shall not be required.

31 (e) The restitution fine shall not be subject to penalty  
32 assessments as provided in Section 1464, and shall be deposited in  
33 the Restitution Fund in the State Treasury.

34 (f) In every case in which a victim has suffered economic loss  
35 as a result of the defendant's conduct, the court shall require that  
36 the defendant make restitution to the victim or victims in an  
37 amount established by court order, based on the amount of loss  
38 claimed by the victim or victims or any other showing to the court.  
39 If the amount of loss cannot be ascertained at the time of  
40 sentencing, the restitution order shall include a provision that the

1 amount shall be determined at the direction of the court. The court  
2 shall order full restitution unless it finds compelling and  
3 extraordinary reasons for not doing so, and states them on the  
4 record.

5 (1) The defendant has the right to a hearing before a judge to  
6 dispute the determination of the amount of restitution. The court  
7 may modify the amount, on its own motion or on the motion of the  
8 district attorney, the victim or victims, or the defendant. If a  
9 motion is made for modification of a restitution order, the victim  
10 shall be notified of that motion at least 10 days prior to the  
11 proceeding held to decide the motion.

12 (2) Determination of the amount of restitution ordered  
13 pursuant to this subdivision shall not be affected by the  
14 indemnification or subrogation rights of any third party.  
15 Restitution ordered pursuant to this subdivision shall be ordered  
16 to be deposited to the Restitution Fund to the extent that the victim,  
17 as defined in subdivision (k), has received assistance from the  
18 Victims of Crime Program pursuant to Article 1 (commencing  
19 with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title  
20 2 of the Government Code.

21 (3) To the extent possible, the restitution order shall be  
22 prepared by the sentencing court, shall identify each victim and  
23 each loss to which it pertains, and shall be of a dollar amount that  
24 is sufficient to fully reimburse the victim or victims for every  
25 determined economic loss incurred as the result of the defendant's  
26 criminal conduct, including, but not limited to, all of the  
27 following:

28 (A) Full or partial payment for the value of stolen or damaged  
29 property. The value of stolen or damaged property shall be the  
30 replacement cost of like property, or the actual cost of repairing the  
31 property when repair is possible.

32 (B) Medical expenses.

33 (C) Mental health counseling expenses.

34 (D) Wages or profits lost due to injury incurred by the victim,  
35 and if the victim is a minor, wages or profits lost by the minor's  
36 parent, parents, guardian, or guardians, while caring for the  
37 injured minor. Lost wages shall include any commission income  
38 as well as any base wages. Commission income shall be  
39 established by evidence of commission income during the  
40 12-month period prior to the date of the crime for which restitution

1 is being ordered, unless good cause for a shorter time period is  
2 shown.

3 (E) Wages or profits lost by the victim, and if the victim is a  
4 minor, wages or profits lost by the minor's parent, parents,  
5 guardian, or guardians, due to time spent as a witness or in assisting  
6 the police or prosecution. Lost wages shall include any  
7 commission income as well as any base wages. Commission  
8 income shall be established by evidence of commission income  
9 during the 12-month period prior to the date of the crime for which  
10 restitution is being ordered, unless good cause for a shorter time  
11 period is shown.

12 (F) Noneconomic losses, including, but not limited to,  
13 psychological harm, for felony violations of Section 288.

14 (G) Interest, at the rate of 10 percent per annum, that accrues  
15 as of the date of sentencing or loss, as determined by the court.

16 (H) Actual and reasonable attorney's fees and other costs of  
17 collection accrued by a private entity on behalf of the victim.

18 (I) Expenses incurred by an adult victim in relocating away  
19 from the defendant, including, but not limited to, deposits for  
20 utilities and telephone service, deposits for rental housing,  
21 temporary lodging and food expenses, clothing, and personal  
22 items. Expenses incurred pursuant to this section shall be verified  
23 by law enforcement to be necessary for the personal safety of the  
24 victim or by a mental health treatment provider to be necessary for  
25 the emotional well-being of the victim.

26 (J) Expenses to install or increase residential security incurred  
27 related to a crime, as defined in subdivision (c) of Section 667.5,  
28 including, but not limited to, a home security device or system, or  
29 replacing or increasing the number of locks.

30 (K) Expenses to retrofit a residence or vehicle, or both, to make  
31 the residence accessible to or the vehicle operational by the victim,  
32 if the victim is permanently disabled, whether the disability is  
33 partial or total, as a direct result of the crime.

34 (4) (A) If, as a result of the defendant's conduct, the  
35 Restitution Fund has provided assistance to or on behalf of a victim  
36 or derivative victim pursuant to Article 1 (commencing with  
37 Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of  
38 the Government Code, the amount of assistance provided shall be  
39 presumed to be a direct result of the defendant's criminal conduct  
40 and shall be included in the amount of the restitution ordered.



1 (B) The amount of assistance provided by the Restitution Fund  
2 shall be established by copies of bills submitted to the ~~State Board~~  
3 ~~of Control~~ *Victim Compensation and Government Claims Board*  
4 reflecting the amount paid by the board and whether the services  
5 for which payment was made were for medical or dental expenses,  
6 funeral or burial expenses, mental health counseling, wage or  
7 support losses, or rehabilitation. Certified copies of these bills  
8 provided by the ~~State Board of Control~~ *Victim Compensation and*  
9 *Government Claims Board* and redacted to protect the privacy and  
10 safety of the victim or any legal privilege, together with a  
11 statement made under penalty of perjury by the custodian of  
12 records that those bills were submitted to and were paid by the  
13 ~~State Board of Control~~ *Victim Compensation and Government*  
14 *Claims Board*, shall be sufficient to meet this requirement.

15 (C) If the defendant offers evidence to rebut the presumption  
16 established by this paragraph, the court may release additional  
17 information contained in the records of the ~~State Board of Control~~  
18 *Victim Compensation and Government Claims Board* to the  
19 defendant only after reviewing that information in camera and  
20 finding that the information is necessary for the defendant to  
21 dispute the amount of the restitution order.

22 (5) Except as provided in paragraph (6), in any case in which  
23 an order may be entered pursuant to this subdivision, the defendant  
24 shall prepare and file a disclosure identifying all assets, income,  
25 and liabilities in which the defendant held or controlled a present  
26 or future interest as of the date of the defendant's arrest for the  
27 crime for which restitution may be ordered. ~~This~~ *If a defendant has*  
28 *any remaining unpaid balance on a restitution order or fine at the*  
29 *time of his or her release from probation or parole, the defendant*  
30 *shall submit a current financial disclosure statement to his or her*  
31 *probation or parole officer. The financial disclosure statements*  
32 *shall be made available to the victim or the Victim Compensation*  
33 *and Government Claims Board pursuant to Section 1214, and any*  
34 *use the court may make of the disclosure shall be subject to the*  
35 *restrictions of subdivision (g). The disclosure shall be signed by*  
36 *the defendant upon a form approved or adopted by the Judicial*  
37 *Council for the purpose of facilitating the disclosure. Any*  
38 *defendant who willfully states as true any material matter that he*  
39 *or she knows to be false on the disclosure required by this*  
40 *subdivision is guilty of a misdemeanor, unless this conduct is*



1 punishable as perjury or another provision of law provides for a  
2 greater penalty.

3 (6) A defendant who fails to file the financial disclosure  
4 required in paragraph (5), but who has filed a financial affidavit or  
5 financial information pursuant to subdivision (c) of Section 987,  
6 shall be deemed to have waived the confidentiality of that affidavit  
7 or financial information as to a victim in whose favor the order of  
8 restitution is entered pursuant to subdivision (f). The affidavit or  
9 information shall serve in lieu of the financial disclosure required  
10 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not  
11 apply.

12 (7) Except as provided in paragraph (6), the defendant shall file  
13 the disclosure with the clerk of the court no later than the date set  
14 for the defendant's sentencing, unless otherwise directed by the  
15 court. The disclosure may be inspected or copied as provided by  
16 subdivision (b), (c), or (d) of Section 1203.05.

17 (8) In its discretion, the court may relieve the defendant of the  
18 duty under paragraph (7) of filing with the clerk by requiring that  
19 the defendant's disclosure be submitted as an attachment to, and  
20 be available to, those authorized to receive the following:

21 (A) Any report submitted pursuant to subparagraph (C) of  
22 paragraph (2) of subdivision (b) of Section 1203 or subdivision (g)  
23 of Section 1203.

24 (B) Any stipulation submitted pursuant to paragraph (4) of  
25 subdivision (b) of Section 1203.

26 (C) Any report by the probation officer, or any information  
27 submitted by the defendant applying for a conditional sentence  
28 pursuant to subdivision (d) of Section 1203.

29 (9) The court may consider a defendant's unreasonable failure  
30 to make a complete disclosure pursuant to paragraph (5) as any of  
31 the following:

32 (A) A circumstance in aggravation of the crime in imposing a  
33 term under subdivision (b) of Section 1170.

34 (B) A factor indicating that the interests of justice would not be  
35 served by admitting the defendant to probation under Section  
36 1203.

37 (C) A factor indicating that the interests of justice would not be  
38 served by conditionally sentencing the defendant under Section  
39 1203.

(D) A factor indicating that the interests of justice would not be served by imposing less than the maximum fine and sentence fixed by law for the case.

(10) A defendant's failure or refusal to make the required disclosure pursuant to paragraph (5) shall not delay entry of an order of restitution or pronouncement of sentence. In appropriate cases, the court may do any of the following:

(A) Require the defendant to be examined by the district attorney pursuant to subdivision (h).

(B) If sentencing the defendant under Section 1170, provide that the victim shall receive a copy of the portion of the probation report filed pursuant to Section 1203.10 concerning the defendant's employment, occupation, finances, and liabilities.

(C) If sentencing the defendant under Section 1203, set a date and place for submission of the disclosure required by paragraph (5) as a condition of probation or suspended sentence.

(g) The court shall order full restitution unless it finds compelling and extraordinary reasons for not doing so, and states those reasons on the record. A defendant's inability to pay shall not be considered a compelling and extraordinary reason not to impose a restitution order, nor shall inability to pay be a consideration in determining the amount of a restitution order.

(h) The district attorney may request an order of examination pursuant to the procedures specified in Article 2 (commencing with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, in order to determine the defendant's financial assets for purposes of collecting on the restitution order.

(i) A restitution order imposed pursuant to subdivision (f) shall be enforceable as if the order were a civil judgment.

(j) The making of a restitution order pursuant to subdivision (f) shall not affect the right of a victim to recovery from the Restitution Fund as otherwise provided by law, except to the extent that restitution is actually collected pursuant to the order. Restitution collected pursuant to this subdivision shall be credited to any other judgments for the same losses obtained against the defendant arising out of the crime for which the defendant was convicted.

(k) For purposes of this section, "victim" shall include all of the following:

(1) The immediate surviving family of the actual victim.

(2) Any corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity when that entity is a direct victim of a crime.

(3) “Derivative victims” as defined in Section ~~13960~~ 13951 of the Government Code.

~~(l) At its discretion, the board of supervisors of any county may impose a fee to cover the actual administrative cost of collecting the restitution fine, not to exceed 10 percent of the amount ordered to be paid, to be added to the restitution fine and included in the order of the court, the proceeds of which shall be deposited in the general fund of the county. The entities responsible for collecting restitution fines, fees, and orders imposed pursuant to this section, Sections 1202.44, 1202.45, and 1001.90 may impose an administrative fee to cover the cost of collection. The administrative fee shall be in the amount of 10 percent of any amount received toward satisfaction of the restitution fine, fee, or order. The remaining 90 percent of funds received in satisfaction of the restitution fine, fee, or order shall be applied to the debt owed in a manner consistent with the provisions of subdivision (d) of Section 1203.1, if applicable.~~

*If the entity responsible for collecting restitution fines, fees, and orders is a county, the administrative fee may be imposed only upon approval of the county’s board of supervisors.*

*The administrative fee authorized by this section shall not apply to debts collected pursuant to Section 2085.5, or Sections 1752.81 and 1752.82 of the Welfare and Institutions Code.*

(m) In every case in which the defendant is granted probation, the court shall make the payment of restitution fines and orders imposed pursuant to this section a condition of probation. Any portion of a restitution order that remains unsatisfied after a defendant is no longer on probation shall continue to be enforceable by a victim pursuant to Section 1214 until the obligation is satisfied.

(n) If the court finds and states on the record compelling and extraordinary reasons why a restitution fine or full restitution order should not be required, the court shall order, as a condition of probation, that the defendant perform specified community service, unless it finds and states on the record compelling and

1 extraordinary reasons not to require community service in addition  
2 to the finding that restitution should not be required. Upon  
3 revocation of probation, the court shall impose restitution pursuant  
4 to this section.

5 (o) The provisions of Section 13966.01 of the Government  
6 Code shall apply to restitution imposed pursuant to this section.

7 (p) (1) This section shall become operative on January 1,  
8 2000, except when all of the following apply:

9 (A) A majority of judges of a court apply to the Judicial Council  
10 for an extension.

11 (B) The judicial application described in paragraph (1)  
12 documents the need for time to adjust restitution procedures and  
13 practices, as well as to facilitate judicial education and training in  
14 direct restitution to victims under subdivision (f).

15 (C) The Judicial Council grants the extension upon finding  
16 good cause.

17 (2) Upon the grant of an extension pursuant to the application  
18 of a court under this subdivision, the provisions of former Section  
19 1214 shall continue to apply with respect to that court. The  
20 extension may be for any period of time set by the Judicial Council,  
21 but shall not exceed January 1, 2002, in any case.

22 (q) *The court clerk shall notify the Victim Compensation and*  
23 *Government Claims Board within 90 days of an order of restitution*  
24 *being imposed if the defendant is ordered to pay restitution to the*  
25 *Victim Compensation and Government Claims Board.*  
26 *Notification shall be accomplished by mailing a copy of the court*  
27 *order to the Victim Compensation and Government Claims Board,*  
28 *which may be done periodically by bulk mail.*

29 SEC. 2. Section 1202.44 is added to the Penal Code, to read:

30 1202.44. *In every case in which a person is convicted of a*  
31 *crime and is granted probation, the court shall at the time of*  
32 *imposing the restitution fine pursuant to subdivision (b) of Section*  
33 *1202.4 make an order that each time that probation is violated, an*  
34 *additional restitution fine shall be assessed in the same amount as*  
35 *that imposed pursuant to subdivision (b) of Section 1202.4. This*  
36 *probation violation restitution fine shall be assessed each time that*  
37 *probation is violated, and shall not be waived or reduced by the*  
38 *court. Probation violation restitution fines shall be deposited in the*  
39 *Restitution Fund in the State Treasury.*

1     SEC. 3.   *Section 1202.45 of the Penal Code is amended to*  
2     *read:*

3     1202.45.   In every case where a person is convicted of a crime  
4     and whose sentence includes a period of parole, the court shall at  
5     the time of imposing the restitution fine pursuant to subdivision (b)  
6     of Section 1202.4, assess an additional *parole revocation*  
7     restitution fine in the same amount as that imposed pursuant to  
8     subdivision (b) of Section 1202.4. This additional *parole*  
9     *revocation* restitution fine shall be suspended unless the person's  
10    parole is revoked. *The parole revocation restitution fine shall*  
11    *become effective upon that revocation, and shall not be waived or*  
12    *reduced by the court. Parole revocation restitution fine moneys*  
13    *shall be deposited in the Restitution Fund in the State Treasury.*

14    SEC. 4.   Section 1214 of the Penal Code is amended to read:

15    1214.   (a) If the judgment is for a fine, including a restitution  
16    fine ordered pursuant to Section 1202.4, 1202.44, or 1202.45, or  
17    Section 1203.04 as operative on or before August 2, 1995, or  
18    Section 13967 of the Government Code, as operative on or before  
19    September 28, 1994, with or without imprisonment, or a diversion  
20    restitution fee ordered pursuant to Section 1001.90, the judgment  
21    may be enforced in the manner provided for the enforcement of  
22    money judgments generally. Any portion of a restitution fine or  
23    restitution fee that remains unsatisfied after a defendant is no  
24    longer on probation or parole or has completed diversion is  
25    enforceable by the Victim Compensation and Government Claims  
26    Board pursuant to this section. Notwithstanding any other  
27    provision of law prohibiting disclosure, the state, as defined in  
28    Section 900.6 of the Government Code, a local public entity, as  
29    defined in Section 900.4 of the Government Code, or any other  
30    entity, may provide the Victim Compensation and Government  
31    Claims Board any and all information to assist in the collection of  
32    unpaid portions of a restitution fine for terminated probation or  
33    parole cases, or of a restitution fee for completed diversion cases.  
34    For purposes of the preceding sentence, "state, as defined in  
35    Section 900.6 of the Government Code," and "any other entity"  
36    shall not include the Franchise Tax Board.

37    (b) In any case in which a defendant is ordered to pay  
38    restitution, the order to pay restitution (1) is deemed a money  
39    judgment if the defendant was informed of his or her right to have  
40    a judicial determination of the amount and was provided with a

1 hearing, waived a hearing, or stipulated to the amount of the  
2 restitution ordered, and (2) shall be fully enforceable by a victim  
3 as if the restitution order were a civil judgment, and enforceable  
4 in the same manner as is provided for the enforcement of any other  
5 money judgment. Upon the victim's request, the court shall  
6 provide the victim in whose favor the order of restitution is entered  
7 with a certified copy of that order and a copy of the defendant's  
8 disclosure pursuant to paragraph (4) of subdivision (f) of Section  
9 1202.4, affidavit or information pursuant to paragraph (5) of  
10 subdivision (f) of Section 1202.4, or report pursuant to paragraph  
11 (7) of subdivision (f) of Section 1202.4. The court also shall  
12 provide this information to the district attorney upon request in  
13 connection with an investigation or prosecution involving perjury  
14 or the veracity of the information contained within the defendant's  
15 financial disclosure. In addition, upon request, the court shall  
16 provide the Victim Compensation and Government Claims Board  
17 with a certified copy of any order imposing a restitution fine or  
18 order and a copy of the defendant's disclosure pursuant to  
19 paragraph (4) of subdivision (f) of Section 1202.4, affidavit or  
20 information pursuant to paragraph (5) of subdivision (f) of Section  
21 1202.4, or report pursuant to paragraph (7) of subdivision (f) of  
22 Section 1202.4. A victim shall have access to all resources  
23 available under the law to enforce the restitution order, including,  
24 but not limited to, access to the defendant's financial records, use  
25 of wage garnishment and lien procedures, information regarding  
26 the defendant's assets, and the ability to apply for restitution from  
27 any fund established for the purpose of compensating victims in  
28 civil cases. Any portion of a restitution order that remains  
29 unsatisfied after a defendant is no longer on probation or parole is  
30 enforceable by the victim pursuant to this section. Victims and the  
31 Victim Compensation and Government Claims Board shall inform  
32 the court whenever an order to pay restitution is satisfied.

33 (c) Except as provided in subdivision (d), and notwithstanding  
34 the amount in controversy limitation of Section 85 of the Code of  
35 Civil Procedure, a restitution order or restitution fine that was  
36 imposed pursuant to Section 1202.4 in any of the following cases  
37 may be enforced in the same manner as a money judgment in a  
38 limited civil case:

39 (1) In a misdemeanor case.

40 (2) In a case involving violation of a city or town ordinance.



(3) In a noncapital criminal case where the court has received a plea of guilty or nolo contendere.

(d) Chapter 3 (commencing with Section 683.010) of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure shall not apply to a judgment for any fine or restitution ordered pursuant to Section 1202.4 or Section 1203.04 as operative on or before August 2, 1995, or Section 13967 of the Government Code, as operative on or before September 28, 1994, or to a diversion restitution fee ordered pursuant to Section 1001.90.

(e) (1) This section shall become operative on January 1, 2000, and shall be applicable to all courts, except when all of the following apply:

(A) A majority of judges of a court apply to the Judicial Council for an extension.

(B) The judicial application described in paragraph (1) documents the need for time to adjust restitution procedures and practices, as well as to facilitate judicial education and training in direct restitution to victims under subdivision (f) of Section 1202.4.

(C) The Judicial Council grants the extension upon finding good cause.

(2) Upon the grant of an extension pursuant to the application of a court under this subdivision, the provisions of former Section 1202.4 shall continue to apply with respect to that court. The extension may be for any period of time set by the Judicial Council, but shall not exceed January 1, 2002, in any case.

*SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:*

*In order to effectuate the collection of revenue for the Restitution Fund and to pay claims submitted by victims of crime to end their financial hardship as soon as possible, it is necessary for this act to take immediate effect.*